IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION No. 4:02-CR-60-4H

BRUCE OKELLO JOSEPH,)	
)	
Petitioner,)	
)	
)	
V.)	
)	ORDER
UNITED STATES OF AMERICA)	
)	
Respondent.)	
	,	

This matter is before the court on petitioner's motion filed March 22, 2013, entitled "Pro Se Motion for Relief Pursuant to <u>United States v. Simmons</u>, 649 F.3d 237 (4th Cir. 2011)." Inasmuch as petitioner appears to be challenging his conviction based on the Supreme Court's decision in <u>Carachuri-Rosendo v. Holder</u>, 130 S. Ct. 2577 (2010), as applied in <u>United States v. Simmons</u>, 649 F.3d 237, 240 (4th Cir. 2011), this matter is referred to the Federal Public Defender for appointment of counsel pursuant to this court's October 18, 2011, Standing Order, 11-SO-3.

A review of the record in this case establishes that petitioner previously filed a motion to vacate pursuant to 28 U.S.C. § 2255, which was denied on the merits. Accordingly, the court DIRECTS the Federal Public Defender to review this matter

and to show cause, if any, within thirty (30) days, why petitioner's motion should not be construed as a § 2255 motion and dismissed as successive. The clerk is directed to serve a copy of this order upon the Federal Public Defender.

This 10th day of May 2013.

MALCOLM J. HOWARD

Senior United States District Judge

At Greenville, NC #31